

Followup Audit

of the
**Options for Youth, Inc. and
Opportunities for Learning, Inc.
Charter Schools**



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**Commissioned by the Superintendent of Public
Instruction in Cooperation with the Los Angeles,
Orange, Sacramento, San Bernardino, and
Siskiyou County Offices of Education**

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Executive Summary

In August 2006, the Fiscal Crisis and Management Assistance Team (FCMAT) and MGT of America, Inc. (MGT) issued an audit report entitled “Extraordinary Audit of the Options for Youth, Inc. and Opportunities for Learning, Inc. Charter Schools.” The report, completed at the request of the state Superintendent of Public Instruction (State Superintendent) and the county offices of education in Los Angeles, Orange, Sacramento, San Bernardino, and Siskiyou counties, examined the fiscal and administrative conditions of the Options for Youth (OFY) and Opportunities for Learning (OFL) charter schools for fiscal years 2002-03 through 2004-05. The report revealed serious concerns regarding the fiscal operations of the schools and that the charter schools potentially overclaimed as much as \$57 million in funding from the state.

In November 2006, the State Superintendent and the five county offices of education initiated an expansion of the audit to include the financial calculations and pupil-to-teacher ratios for fiscal year 2001-02. This report presents the findings from the audit team’s investigation of the six OFY and two OFL charter schools for fiscal year 2001-02.

Charter School Funding and Financial Analysis

When applying for funding, nonclassroom-based charter schools such as those operated by OFY and OFL must submit a Nonclassroom-Based Senate Bill 740 (Chapter 892, Statutes of 2001) Funding Determination form (SB 740 form). Charter schools may be eligible for partial or full funding depending on the ratio of expenditures to revenues for instruction-related activities and certificated staff salaries and benefits reported in the SB 740 form. The State Board of Education (SBE) uses the data in this form to determine the percentage of funding that the school is eligible to receive in the upcoming year.

Options for Youth

The audit team identified one issue with the financial data that the OFY charter schools reported on a fiscal year 2002-03 SB 740 form. The OFY-Upland charter school incorrectly included \$26,166 in salary and benefits for one noncredentialed administrator in the certificated staff compensation category. This misallocation of expenses resulted in OFY incorrectly reporting a higher percentage of expenses for certificated staff at the OFY-Upland charter school.

Opportunities for Learning

The audit team also identified issues with the financial data the OFL charter schools reported on their fiscal year 2002-03 SB 740 forms. Specifically, in reviewing the documents used to compile expenses reported on the SB 740 forms for 2002-03, the audit team found that OFL incorrectly included \$43,974 in teacher automobile expenses, reimbursements, and education costs in the certificated staff compensation category. In addition, OFL incorrectly included \$120,783 in salaries and benefits for two administrators in the instruction

and related services expenditures category. These misallocations of expenses resulted in OFL incorrectly reporting higher percentages for certificated staff compensation and instruction and related services expenditures for the two charter schools it operated in fiscal year 2001-02.

Charter School Pupil-to-Teacher Ratios

Nonclassroom-based schools must also maintain a pupil-to-teacher ratio that does not exceed the equivalent ratio for all other educational programs operated by the unified school district with the largest average daily attendance (ADA) of pupils in that county. Only units of ADA with a pupil-to-teacher ratio that does not exceed the comparison ratio are eligible for funding.

Options for Youth

The support OFY provided for its full-time equivalent credentialed teachers (FTE) for inclusion in the pupil-to-teacher ratio did not always agree with the amount of FTE that OFY claimed on its SB 740 forms, and OFY lacked support for five FTEs. The OFY also did not always round properly in its calculations and utilized inaccurate pupil-to-teacher ratio numbers from the largest unified school districts. However, correcting OFY's rounding errors and using verified pupil-to-teacher ratio numbers from the largest unified school districts does not cause OFY's pupil-to-teacher ratios to exceed the ratios of the comparison districts.

Opportunities for Learning

The OFL lacked support for more than 13 FTEs it claimed in 2001-02 and claimed more than six questionable teacher FTEs. The OFL also appears to have rounded incorrectly and utilized inaccurate pupil-to-teacher ratio numbers from the largest unified school districts, resulting in an apparent overpayment to OFL-William S. Hart of approximately \$601,271 from the state.

Summary of Key Recommendations

To establish compliance with state requirements for funding, OFY and OFL should:

- Maintain accurate and reliable documentation to support the expenses used in the SB 740 forms.
- Establish procedures to ensure that the staff properly records expenses to the correct accounting categories, and performs periodic reviews to verify accuracy.

To improve their controls and practices over the calculations of FTE and pupil-to-teacher ratios, OFY and OFL should establish appropriate monitoring and review to ensure that they:

- Calculate FTE in accordance with established rules utilizing proper rounding techniques and maintaining adequate support for FTEs claimed.
- Obtain accurate reports of the pupil-to-teacher ratios for the largest unified school districts, if applicable.

To ensure that OFL received an appropriate amount of funding, the state should determine whether to seek reimbursement or withhold funds for the approximately \$601,271 related to the inaccurate or unsupportable pupil-to-teacher ratio data the OFL-William S. Hart reported on its 2002-03 SB 740 form.

Introduction

Charter School Funding

OFY and OFL charter schools receive funding from the state based on the program sites' ADA. This is similar to the funding mechanism for public schools. Schools claim ADA based on the aggregate attendance of students during each reporting period. For example, one student who attends school each day for the entire reporting period is eligible for 1.0 ADA. School districts and charter schools calculate ADA and report it to the California Department of Education (CDE) three times per year. After the charter schools report their ADA to CDE, the state Superintendent apportions state school funds to the charter schools.

Senate Bill 740 amended the Charter School Act of 1992, which established criteria for funding charter schools offering nonclassroom-based instruction. Education Code Section 47634.2 authorized the SBE to establish criteria for evaluating funding requests and to determine the total amount of funding each nonclassroom-based charter school should receive.

When applying for funding, nonclassroom-based charter schools such as those operated by OFY and OFL must also submit an SB 740 form, containing revenue and expenditure data from the previous school year. Charter schools may be eligible for partial or full funding depending on the ratio of expenditures to revenues for instruction and related services and certificated staff compensation. The SBE uses this data as a basis for determining the percentage of funding the school is eligible to receive in the upcoming year. For instance, the SB 740 form used to determine funding levels for 2002-03 is based on actual financial data from the 2001-02 school year.

The previous audit report, issued in August 2006, contains a background of charter schools in California and a more detailed description of charter school funding.

Request for an Audit of OFY and OFL

In 2005, the state Superintendent and the county offices of education in Los Angeles, Orange, Sacramento, San Bernardino, and Siskiyou counties initiated an audit request of the fiscal and administrative conditions of the OFY and OFL charter schools. FCMAT contracted with MGT of America, Inc. to perform this audit. The request required the audit team to perform tests to ensure that the charter schools were complying with nonclassroom-based requirements, and to determine whether the schools had engaged in related-party transactions with vendors or contractors. The subsequent audit report, issued in August 2006, revealed serious concerns regarding the fiscal operations of the schools and indicated that they had potentially overclaimed as much as \$57 million in state funding.

In November 2006, the original audit requestors initiated an expansion of the audit to include the 2001-02 school year results included in the 2002-03 funding determination requests of the charter schools. The expansion is smaller in scope than the first phase, and deals only with the financial calculations in the SB 740 forms and pupil-to-teacher ratio calculations for fiscal year 2001-02.

Scope and Methodology

Exhibit I-1 summarizes the limited scope of this audit report.

Exhibit I-1

Scope of Investigative Audit (Summarized)

Issue	Objectives
Investigate certificated staff and instructional expenses	Determine the accuracy of the ratios of certificated staff compensation and instruction and related services expenditures to the amount of total public revenues for the 2001-02 school year, as reported to the state.
Investigate pupil-to-teacher ratios	Validate the accuracy of the OFY and OFL calculation of the ratio of nonclassroom-based teachers to average daily student attendance generated through full-time, nonclassroom-based study pursuant to state law. Calculate the amount of any overclaimed revenues from the state.

Investigate Certificated Staff and Instructional Expenses

To determine the accuracy of the OFY and OFL reported amounts of certificated staff compensation and instruction and related services expenditures compared to the amount of total public revenues and total revenues for the 2001-02 school year reported in each charter school's SB 740 forms, the audit team matched the amounts to the audit reports prepared by the entities' external auditors. The audit team also summarized and agreed the charter schools' general ledgers to the numbers reported on the SB 740 forms. The audit team tested a sample of the reported financial transactions to supporting evidence such as invoices, receipts, and payroll records to determine whether the amounts were adequately supported and that the charter schools properly reported and classified these amounts. Using verified amounts, the audit team recalculated certificated staff and instruction and related services expenditures percentages using the state-approved methodology and formulas.

Investigate Pupil-to-Teacher Ratios

To test the OFY and OFL pupil-to-teacher ratio calculations pursuant to California Education Code Section 51745.6; Title 5, California Code of Regulations, Section 11704; and the Instructions for Ratio Calculations published by the Independent Study Office at the CDE, the audit team reviewed each charter's Period 2 (P-2) classroom-based ADA, FTEs, and pupil-to-teacher ratios reported in audited financial statements, SB 740 forms, and in

internally generated tracking documents, as applicable. (The Second Period Report of Attendance, or P-2, is the funding apportionment claim report that is the basis for a nonclassroom-based charter school's pupil-to-teacher ratio calculations.) The audit team verified the pupil-to-teacher ratios of the largest unified school district in the counties in which the charter schools operated in fiscal year 2001-02 by contacting staff at these districts to obtain their information.

To determine the validity of the claimed FTEs, the audit team reviewed a sample of teachers' files and payroll records and verified credential and employment start and end dates. The audit team tested all credentialed teachers claimed as FTE in 2001-02 for OFY-Burbank and OFL-Baldwin Park. The audit team also focused on teachers the charter schools had reported as FTEs but who had no student records listed in the charter schools' student information system. When the audit team noted discrepancies, it requested additional information from the OFY and OFL charter schools. To the extent that the charter schools could not provide adequate explanations and support, the audit team excluded these teachers and recalculated the FTE counts and pupil-to-teacher ratios.

To assess the reliability of the data contained in the electronic student information system that tracks the ADA reported by the charter schools, the audit team summarized student data contained in the system for fiscal year 2001-02 and compared this to ADA the charter schools reported in audited financial statements and subsequently reported to the state. The audit team also matched a sample of electronic records to the student files. The audit team was able to reconcile its calculation of ADA from the electronic records to reported amounts and noted no material discrepancies in its tests.

Audit Standards

The audit was conducted in accordance with generally accepted government auditing standards promulgated by the Comptroller General of the United States. These standards pertain to the auditor's professional qualifications, the quality of the audit effort, and the characteristics of professional and meaningful audit reports. Specifically, the audit team followed the general standards pertaining to qualifications, independence, and due professional care. The audit team also followed standards pertaining to conducting the audit fieldwork and preparing the audit report. By following these standards, the audit team ensured the independence and objectivity of the audit team, the analysis, and the resulting findings and recommendations offered in this report. The audit team limited its review to those areas specified in the scope section of this report.

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Audit Results

Charter School Funding and Financial Analysis

When applying for funding, nonclassroom-based charter schools such as those operated by OFY and OFL must submit a SB 740 form. The SBE uses this data as a basis for determining the percentage of funding that the school is eligible to receive in the upcoming year. Charter schools report revenue and expenditure data from the previous school year. For instance, the SB 740 form used to determine funding levels for 2002-03 is based on actual financial data from the 2001-02 school year.

As shown in Exhibit 1, to receive 100% of available funding, a charter school must ensure that its ratios of certain expenses to revenues meet specific thresholds. If a charter school's ratios do not meet these levels, it can still receive partial funding, usually determined as a reduced percentage of the total available funding. As illustrated below, charter schools that did not spend at least 50% of their total public revenues on certificated staff in fiscal year 2001-02 did not meet the criteria for 100% funding in fiscal year 2002-03.

Exhibit 1

Criteria Used to Determine Charter School Funding Level, School Year 2002-03

Ratio of Certificated Staff Compensation to Total Public Revenues*	and/or	Ratio of Expenditures for Instruction and Related Services to Total Revenues*	Funding Eligibility**
Equals or exceeds 50%	—	—	100%
Equals or exceeds 35%, but less than 50%	and	Equals or exceeds 55%	80%
Less than 35%	or	Less than 55%	70%

Source: California Code of Regulations, Title 5, Division 1, Chapter 11, Subchapter 19, Section 11963.4.

* Prior year's revenues and expenses are used in these calculations.

** A charter school must meet an additional requirement to receive funding by ensuring that its ratio of ADA for nonclassroom-based pupils to full-time certificated employees responsible for nonclassroom-based study does not exceed the equivalent ratio of pupils to full-time certificated employees for all other educational programs operated by the largest unified school district in the county or counties in which the charter operates.

In addition to the criteria listed above, the Advisory Commission on Charter Schools could recommend to SBE for the 2002-03 funding determination that charter schools receive a different funding level than shown in the table, if "... there is a reasonable basis to recommend otherwise." In fact, the SBE determined the appropriate funding level for OFY and OFL for 2002-03 was 60%. However, this funding determination was subsequently invalidated, as the regulations relied on to determine the funding had not been properly adopted. (EMS-BP et al. v. California Department of Education et al. [May 31, 2005, C046457] [nonpubl. opn.].) The SBE is required to make a new funding determination for OFY and OFL for 2002-03.

Because the funding determination depends to a large extent on the amounts that the charter schools report spending for certificated staff and instructional and related services on their funding determination forms, the accuracy of the amounts reported as expended in the various categories is very important. Certificated instructional staff are defined as those who hold a valid certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold from the California Commission on Teacher Credentialing.

The instructions for completing the SB 740 form guide schools in how to properly categorize revenues and expenditures. The laws pertaining to the funding determination process became operative in January 2002, and were retroactive to the beginning of the 2001-02 school year. The following sections describe the issues identified in the audit team's review of financial data pertaining to OFY and OFL.

Financial Data Used to Determine Funding for OFY Charter Schools

The audit team identified one issue concerning the administrative staff salaries and benefits reported on one SB 740 form submitted by the OFY charter schools. Specifically, one administrative staff member at the OFY-Upland charter school did not possess a valid credential. Without a valid credential, this staff member's \$26,166 in salary and benefits is ineligible to be included in the SB 740 funding determination ratio of certificated staff compensation to total public revenues.

Exhibit 2

OFY Claimed and Verified Percentages for Certificated Staff Compensation

Fiscal Year 2002-03 SB 740 Forms

Charter School	Certificated Staff Compensation Percentage Calculated by Auditors	
	Using Financial Data Reported by OFY in the SB 740 Forms	Using Financial Data Reported by OFY in the SB 740 Forms and Removing Noncertificated Administrator Compensation
Burbank	29.7%	no change
Mount Shasta	28.5	no change
San Gabriel	24.5	no change
San Juan	34.5	no change
Upland	26.7	26.1%↓
Victor Valley	29.1	no change

Source: OFY 2002-03 SB 740 forms, accounting records, and payroll data.

Financial Data Used to Determine Funding for OFL Charter Schools

The audit team also identified issues with the financial data OFL charter schools reported on their SB 740 forms. The two OFL charter schools improperly included \$120,783 for two administrative staff (salaries and benefits) in the instruction and related services expenditures category in the SB 740 forms. In addition, OFL incorrectly included \$43,974 in teacher automobile expenses, reimbursements, and education costs in the certificated staff compensation category. According to the instructions for completing the SB 740 form, these types of expenses should be reported under the category of “All Other Instruction and Related Services and Other Operating Costs.” That category specifically includes travel, conference, and professional development costs for instructional or related personnel. As shown in Exhibit 3, the combined effects of these issues resulted in OFL incorrectly calculating and reporting inflated expense percentages for both charter schools.

Exhibit 3

OFL Claimed and Verified Percentages for Certificated Staff Compensation and Instruction and Related Services Expenditures Fiscal Year 2002-03 SB 740 Forms

Charter School	Certificated Staff Compensation Percentage Calculated by Auditors		Instruction and Related Services Expenditures Percentage Calculated by Auditors	
	Using Financial Data Reported by OFL in the SB 740 Forms	Using Financial Data Reported by OFL in the SB 740 Forms and Removing Automobile, Reimbursements, and Education Costs	Using Financial Data Reported by OFL in the SB 740 Forms	Using Financial Data Reported by OFL in the SB 740 Forms and Removing Certificated Administrator Compensation
Baldwin Park	36.6%	36.0%↓	57.1%	55.9%↓
William S. Hart	32.9	32.7↓	40.5	39.4↓

Source: OFL 2002-03 SB 740 forms, accounting records, and payroll data.

Charter School Pupil-to-Teacher Ratios

California Education Code and CDE instructions specify that the ratio of ADA for non-classroom-based pupils 18 years of age or younger to FTE certificated employees directly responsible for nonclassroom-based study shall not exceed the equivalent ratio of pupils to full-time certificated employees for all other educational programs operated by the unified school district with the largest average daily attendance of pupils in that county. The computation of these ratios is to be performed annually by the reporting entity at the time of, and in connection with, the second principal apportionment report to the state Superintendent. Only the ADA units for nonclassroom-based study that reflect a pupil-to-teacher ratio within the comparison ratio are eligible for apportionment.

The previous audit report, issued in August 2006, contains a more detailed background of state laws and regulations related to nonclassroom-based charter schools and a description of the methodology that OFY and OFL use to determine their FTE certificated teachers.

Although each teacher at OFY and OFL that was claimed as an FTE in calculating the pupil-to-teacher ratios and tested by the audit team held a valid teaching credential, the audit team found FTE miscalculations at both entities and the inclusion of a few staff at OFL that do not qualify. Additionally, some of the pupil-to-teacher ratio calculations were incorrect because of improper rounding. In the SB 740 forms, the entities also overstated and understated the comparison pupil-to-teacher ratios for the largest unified school districts. In fact, none of the pupil-to-teacher ratios reported by OFY or OFL for their charter schools or largest unified school districts matched the pupil-to-teacher ratios verified by the audit team. As a result, OFL-William S. Hart appears to have been overpaid by the state.

OFY Pupil-to-Teacher Ratios

The audit team found the following issues that adversely affected the OFY's reported pupil-to-teacher ratios:

- The support OFY provided for its pupil-to-teacher ratio claims for each of its six charter schools did not agree with the pupil-to-teacher ratios that OFY claimed in its SB 740 forms.
- The OFY could not provide support for five FTEs (rounded) it claimed in its pupil-to-teacher ratios for OFY-San Juan (1 FTE), OFY-Upland (1 FTE), and OFY-Victor Valley (3 FTEs).
- The OFY-Mount Shasta and OFY-San Juan rounded their pupil-to-teacher ratios up instead of rounding down as specified in the pupil-to-teacher ratio instructions.
- The OFY-Upland and OFY-Victor Valley used San Bernardino City USD for the largest unified school district in their SB 740 forms, but used a different district (Victor Valley Union High) as the largest unified school district for their supporting documentation. In fact, San Bernardino City USD was the largest unified school district in San Bernardino County during the 2001-02 school year.
- The OFY-Burbank and OFY-San Gabriel used a comparison pupil-to-teacher ratio for the largest unified school district (Los Angeles USD that is significantly higher (26 to 1) than the actual ratio LAUSD provided to the audit team (21 to 1). However, OFY relied upon calculations provided to it by its external auditors.
- The OFY-Mount Shasta used a comparison pupil-to-teacher ratio for the largest unified school district (Yreka Union School District) that was higher (19 to 1) than the actual ratio that Yreka Union School District provided to the audit team (18 to 1).

- The OFY did not round the FTEs down when calculating the pupil-to-teacher ratios. The pupil-to-teacher ratio instructions specify that FTEs are to be rounded down when calculating pupil-to-teacher ratios. The OFY made this error when calculating the pupil-to-teacher ratios for all six OFY charter schools.

The audit team found these issues that positively affected the OFY's reported pupil-to-teacher ratios:

- The OFY-Upland and OFY-Victor Valley used a comparison pupil-to-teacher ratio for the largest unified school district (San Bernardino City USD) that was lower (21 to 1) than the actual ratio that San Bernardino City USD provided to the audit team (22 to 1).
- The OFY-San Juan used a comparison pupil-to-teacher ratio for the largest unified school district (Sacramento City USD) that was lower (21 to 1) than the actual ratio that Sacramento City USD provided to the audit team (22 to 1).
- The OFY did not remove the ADA of students over the age of 19 when calculating its charter schools' pupil-to-teacher ratios, and therefore reported more conservative pupil-to-teacher ratios to the state.

As Exhibit 4 shows, removing the ADA for students over age 19, unsupported FTEs, and using proper rounding techniques changes the pupil-to-teacher ratio calculations for all of the charter schools. However, all are still within the pupil-to-teacher ratios from the largest unified school districts.

Exhibit 4

Differences in OFY Pupil-to-Teacher Ratio Calculations

Charter School	Pupil-to-Teacher Ratios			
	OFY Claimed on SB 740	Auditor Calculated Using Supporting Documents Provided by OFY	Largest Unified School District	
			OFY Claimed on SB 740	Reported to Audit Team
Fiscal year 2001-02				
Burbank	18	19	26	21
Mount Shasta	17	18	19	18
San Gabriel	23	21	26	21
San Juan	14	16	21	22
Upland	16	20	21	22
Victor Valley	18	20	21	22

Sources: Auditor generated using data from OFY, the SB 740 forms, and the comparison districts.

OFL Pupil-to-Teacher Ratios

The audit team found these issues that adversely affected the OFL's reported pupil-to-teacher ratios:

- The support OFL provided for its pupil-to-teacher ratio claims for OFL-Baldwin Park and OFL-William S. Hart did not agree with the pupil-to-teacher ratios that OFL claimed in its SB 740 forms.
- The OFL-Baldwin Park could not provide support for 13.44 FTEs, and claimed 6.64 FTEs for staff who did not provide direct instruction to students, or who only worked part-time.
- The OFL-Baldwin Park and OFL-William S. Hart used a comparison pupil-to-teacher ratio for the largest unified school district (LAUSD) that is significantly higher (26 to 1) than the actual ratio LAUSD provided to audit team (21 to 1).
- The OFL did not round the FTEs down when calculating the pupil-to-teacher ratios. The pupil-to-teacher ratio instructions specify that FTEs are to be rounded down when calculating pupil-to-teacher ratios. The OFL made this error when calculating the pupil-to-teacher ratios for both OFL charter schools.

As Exhibit 5 shows, OFL-William S. Hart's pupil-to-teacher ratio exceeds the verified pupil-to-teacher ratio numbers from the largest unified school district. As a result, OFL-William S. Hart appears to have been overpaid \$601,271 by the state for ineligible ADA.

Exhibit 5

OFL May Have Been Overpaid Approximately \$600,000 Due to Its Inaccurate Pupil-to-Teacher Ratio Calculations

Charter School	Pupil-to-Teacher Ratios				
	OFL Claimed on SB 740	Auditor Calculated Using Supporting Documents Provided by OFL	Largest Unified School District		Amount of Recommended Apportionment Disallowance
			OFL Claimed on SB 740	Reported to Audit Team	
Fiscal Year 2001-02					
Baldwin Park	13	21	26	21	-
William S. Hart	14	24	26	21	\$601,271
Total					\$601,271

Sources: Auditor generated using data from OFL, the SB 740 forms, and the comparison districts.

Recommendations

To establish compliance with state requirements for funding, OFY and OFL should do the following:

- Maintain accurate and reliable documentation to support the expenses claimed in the SB 740 forms.
- Establish procedures to ensure that staff properly record expenses to the correct accounting categories and perform periodic reviews to verify accuracy.

To improve their controls and practices over the calculations of FTE and pupil-to-teacher ratios, OFY and OFL should establish appropriate monitoring and reviewing of funding determination worksheets to ensure that they:

- Calculate FTE in accordance with established rules utilizing proper rounding techniques.
- Maintain adequate support for FTEs claimed.
- Claim only allowable FTE staff.
- Obtain accurate reports of the pupil-to-teacher ratios for the largest unified school districts, if applicable.

To ensure that OFL received an appropriate amount of funding, the state should determine whether to seek reimbursement or withhold funds for the approximately \$601,271 related to the inaccurate or unsupportable pupil-to-teacher ratio data OFL-William S. Hart reported on its 2002-03 SB 740 form.

**Responses to Audit of Options for Youth
and Opportunities for Learning**

and

Audit Team's Rebuttals to Responses



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RESPONSE TO AUDIT OF OPTIONS FOR YOUTH

INTRODUCTION

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ASSESSMENT / EVALUATION

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FCMAT and MGT of America, Inc. (the “Auditors”) were engaged to perform a Limited Scope Review of the operations of the Options for Youth Charter Schools (“OFY”) during the 2001-2002 fiscal year. This review occurred in the months of February and March 2007 culminating in a report setting forth the Auditors’ recommendations (the “Audit Report”). OFY submits the following response (the “Response”) in order to address, as comprehensively as possible, the information, and recommendations contained in the Audit Report.

The Auditors claim that the 2001-2002 Audit is an extension of a previously concluded Audit of OFY for the 2002-2003; 2003-2004; and, 2004-2005 fiscal years. However, a report of that Audit was published in final form in August 2006 and has been appealed by OFY. Thus, the Audit Report that is the subject of this Response cannot be an “extension” of a previously published audit currently under legal review. 1

The genesis of the 2001-2002 Audit was OFY’s prevailing in a legal action against the California Department of Education (“the CDE”) in which the California Court of Appeal found that funding determinations made for OFY for the 2002-2003 fiscal year were illegally undertaken. The Court invalidated OFY’s funding determination for that year and ordered the CDE to properly re-determine OFY’s funding. Instead of proceeding with the Court ordered re-determination, the CDE sought to delay the process and to instead pursue the 2001-2002 Audit.

The Audit Report makes no recommendations that the CDE seek any reimbursements of funding from any OFY charter school or that OFY be subjected to any ADA adjustments. However, the Audit Report does make certain statements, having no adverse impact upon OFY, concerning pupil-teacher ratio calculations which must be addressed due to their inaccuracy both factually and legally.

OFY Charter Schools

In 2001-2002 OFY served approximately 8,300 students, consisting almost entirely of at-risk youth, failed or under-served students from traditional public school system, many of whom would never have completed high school or attempted to do so but for OFY programs. Since those years, and indeed throughout its history, OFY has strived to continuously improve itself in all respects. OFY charters have earned accreditation from the Western Association of Schools and Colleges (WASC). OFY believes these efforts have shown tangible and substantial results in the most important of areas – student achievement. Academic Progress Index (API) scores of OFY Charter Schools are an average of 105 points higher than alternative schools in the districts in which OFY operates. In comparison to peer schools located in the districts in which OFY operates, OFY's California High School Exit Examination (CAHSEE) passage rates are an average of 36% higher in English-Language Arts and 17% higher in Mathematics. In comparison with the State average, OFY's Hispanic students' CAHSEE passage rates are 16% higher in English-Language Arts. OFY students who are socio-economically disadvantaged have an 18% higher CAHSEE passage rate in English-Language Arts than the State average for students in the same group. When compared with the 100 similar schools list issued by the CDE (size and demographics), OFY schools ranked in the 9th, and 10th deciles on a scale of 1 (lowest) to 10 (highest).

The 2001-2002 Audit

OFY participated in the FCMAT Audit willingly and in all reasonable respects. OFY attempted to provide the Auditors with corrections and additional information with regard to those areas where the Auditors' assumptions and conclusions are erroneous. The Auditors based their recommendations upon information received from third parties. Yet, the Auditors took no steps whatsoever to determine whether the third party information was in fact reliable or valid in any respect. This failure to verify third party information was not only a violation of the Generally Accepted Government Auditing Standards upon which the Audit Report was to be based but also led the Auditors to reach unreliable and indeed inaccurate conclusions.

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The most significant examples of improper conclusions reached as a result of inaccurate third party information are the Auditors' comments regarding the pupil-teacher ratios ("PTRs") of the largest unified school districts in the counties in which the OFY charter schools operated during the relevant period. While these comments did not result in recommendations adverse to OFY, the Auditors' analysis regarding PTR comparisons is legally and factually flawed.

3

The determination regarding whether OFY's PTR exceeds the PTRs of the largest unified school districts in the counties in which OFY operated involves, in part, a

comparison of OFY's PTR to school district PTRs during the audited time period. In conducting the Audit, the Auditors accepted districts' representations of their PTRs without engaging in any review of whether the numbers offered by the districts are accurate.

3

To the extent that the Audit Report is not revised after submission of this Response to correct the Auditor's inaccurate assumptions and conclusions, OFY will pursue all available remedies in order to ensure that the record regarding the operations of OFY charter schools is accurate, impartial and complete. OFY has been required to respond to the Audit Report in a compressed period of time. Accordingly, OFY reserves its right to at anytime raise additional arguments, either factual or legal, not raised herein or that may be subsequently developed by OFY.

Charter School Pupil-Teacher Ratios

Because the Auditors did not verify the PTRs of school districts, located in counties where OFY operates its charter schools, their analysis regarding OFY's PTR as compared to district PTRs is flawed. In addition, the PTR comparison is only relevant to a consideration of whether OFY shall receive 100% funding for the 2002-2003 year and is otherwise entirely immaterial.

3

4

The Auditors' Failure to Verify the School Districts' PTRs Renders Their Analysis Useless

The Auditors assert that the 2001-2002 Audit was conducted according to Generally Accepted Government Auditing Standards which require the Auditors to be independent and to engage in an "objective evaluation of the sufficiency and appropriateness of evidence." The Auditors failed to meet this standard because they took no action whatsoever to review the accuracy of the PTR reported by LAUSD. It is obvious that to the extent any districts have incorrectly reported their PTRs, the Auditors' conclusions as set forth in the Audit Report would be similarly incorrect. In addition, the Auditors failed to take any steps to determine the accuracy of the components and underlying assumptions of the district's reported PTRs all of which can and do directly affect the accuracy of district PTR's.

3

The Auditors contend that, for two of its charters, namely OFY-Burbank and OFY-San Gabriel, OFY used a comparison pupil-teacher ratio of 26:1 with respect to the largest unified school district (LAUSD), which was provided by their external auditors, rather than the pupil-teacher ratio of 21:1 as provided to the Auditors by LAUSD. Similarly, the Auditors stated that OFY-Mount Shasta had used a comparison pupil-teacher ratio of 19:1, for the largest unified school district (Yreka Union School District

("YUSD")) rather than the pupil-teacher ratio of 18:1 as provided to the Auditors by YUSD. The pupil-teacher ratios provided to the Auditors by the districts, in 2007, are ratios prepared by those districts some five years after the fact. The pupil-teacher ratios used by OFY, in 2002, were calculated based on information available at the time. The actual pupil-teacher ratios had not as yet been published by the districts and, as such, were not available at the time OFY had to file its SB740 funding requests.

5

In order to properly audit the ratio of OFY's independent study charter schools' PTRs to the PTRs of the largest unified school districts located in the counties which OFY operated, an independent and unbiased audit must review the PTRs reported by OFY and the PTRs reported by the districts in the counties in which OFY operated its charter schools. The Auditors completed only one-half of their task. The Auditors made no finding regarding the accuracy of the PTR figures proffered by the districts and acknowledge they, therefore, took no steps to assess the accuracy of one-half of the calculation on which they based their PTR comparisons.

3

The Auditors' actions in failing to validate the evidence on which they rely is a violation of GAGAS which requires that "auditors use their professional knowledge, skills and experience to diligently perform, in good faith and with integrity, the gathering of information and the objective evaluation of the sufficiency and appropriateness of evidence." The Auditors' failure to verify the evidence upon which its finding is based also constitutes a violation of Title 5, California Code of Regulations, section 19853(c)(4), which states that when performing an audit of an independent study charter school, an auditor must "verify the accuracy of the following data submitted by the charter school to the California Department of Education on the non-classroom based funding determination form applicable to the year being audited: the charter school's pupil-teacher ratio calculated pursuant to Section 11704, and, if submitted, the pupil-teacher ratio of the largest unified school district in the county or counties in which the charter school operates." As a result of the Auditor's failure to perform the 2001-2002 Audit in accordance with GAGAS and applicable California law, any conclusions set forth in the Audit Report concerning the ratio of OFY's PTRs to district PTRs should be rejected.

3

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If necessary, OFY will undertake the steps the Auditors should have taken to further verify the districts' actual PTRs for the relevant time period and will supplement this response and/or reveal the results of the analysis in the course of any appeal or other legal action pursued in connection with the Audit Report.

CONCLUSION

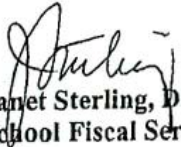
As noted at the outset of this Response, OFY has cooperated with the Audit in all reasonable respects. While OFY believes that many of the recommendations contained

in the Audit Report are based upon faulty factual premises and improper or erroneous legal conclusions, OFY is committed to improving its programs in all respects. It is in that spirit that OFY, through its Managers and Officers, will continue to consider the recommendations, contained in the Audit Report and, where appropriate, implement those recommendations that will help OFY to continue its successful commitment to California's at risk and educationally under-served youth.

Last Minute Memorandum

To: STATE BOARD MEMBERS

Date: May 29, 2002

From:  Janet Sterling, Director
School Fiscal Services Division

Re: ITEM #36

Subject: PERMANENT REGULATIONS REGARDING CLASSROOM AND
NONCLASSROOM BASED INSTRUCTION IN CHARTER SCHOOLS:
IMPLEMENTATION OF THE PROVISIONS OF SENATE BILL 740

Attached for consideration is a package of amendments to the proposed regulations regarding classroom and nonclassroom-based instruction in charter schools, which implement (in part) the provisions of Senate Bill 740 (Chapter 892, Statutes of 2001). These proposed amendments reflect the recommendations of the Advisory Commission on Charter Schools (ACCS) on the permanent regulations, which were developed by ACCS over the past three months and after considerable public testimony by interested parties. The first attachment is a summary of the ACCS's recommendations on the standards that charter schools offering nonclassroom-based instruction would be required to meet to receive a specific funding level. The second attachment is the text of the amended regulations, which reflects the ACCS recommendations.

California Department of Education staff recommend that the State Board of Education direct that this package of amendments be circulated for a 15-day public review period in accordance with the Administrative Procedures Act.

Attachments to Agenda Item:

- Attachment 1: Summary of ACCS's Recommendations (Page 1)
- Attachment 2: Title 5, California Code of Regulations (Page 1-14)

SUMMARY OF ACCS'S RECOMMENDATIONS

FOR THE 2002-03 FISCAL YEAR

- I. **80 percent** – a charter school must demonstrate **BOTH** of the following:
1. The charter school's total expenditures on certificated employee salaries and benefits are at least **35 percent** of the charter school's total public revenues; **AND**
 2. The charter school's total expenditures on instruction and instruction-related activities are at least **55 percent** of the charter school's total revenues.
- II. **100 percent (i.e. full funding)** – a charter school must demonstrate that its total expenditures on certificated employee salaries and benefits are at least **50 percent** of the charter school's total public revenues.
- III. **Less than 80 percent** – if a charter school does not meet **BOTH** of the minimum requirements to receive 80 percent funding, then the funding level is **70 percent**.

FOR 2003-04 AND EACH FISCAL YEAR THEREAFTER

- I. **70 percent** – a charter school must demonstrate **BOTH** of the following:
1. The charter school's total expenditures on certificated employee salaries and benefits are at least **40 percent** of the charter school's total public revenues; **AND**
 2. The charter school's total expenditures on instruction and instruction-related activities are at least **60 percent** of the charter school's total revenues.
- II. **85 percent** – a charter school must demonstrate **BOTH** of the following:
1. The charter school's total expenditures on certificated employee salaries and benefits are at least **50 percent** of the charter school's total public revenues; **AND**
 2. The charter school's total expenditures on instruction and instruction-related activities are at least **70 percent** of the charter school's total revenues.
- III. **100 percent (i.e. full funding)** – a charter school must demonstrate **ALL** of the following:
1. The charter school's total expenditures on certificated employee salaries and benefits are at least **50 percent** of the charter school's total public revenues; **AND**
 2. The charter school's total expenditures on instruction and instruction-related activities are at least **80 percent** of the charter school's total revenues; **AND**
 3. The charter school's pupil-teacher ratio as calculated pursuant to *Education Code* Section 51745.6 is no greater than the pupil-teacher ratio of the largest unified school district in the county or counties in which the charter school operates.
- IV. **Less than 70 percent** – if a charter school does not meet **ALL** of the minimum requirements to receive 70 percent, then the funding level is **zero**.
-
- All expenditure and revenue data will be prior year data, except for new charter schools, which will use estimated current year data.
 - Mitigating factors and individual circumstances may be considered by the ACCS and SBE in making determinations different from the standards above.

Rebuttal to the Options for Youth Response

To provide clarity and perspective, the audit team is commenting on the Options for Youth response to the audit. The numbers below correspond to the numbers the audit team has placed in Options for Youth's response.

1. **The audit team fails to see the point of this statement.** The findings presented in the audit report are unaffected whether the fiscal year 2001-02 audit was an extension of the 2002-03 through 2004-05 audit or a new audit. Further, the audit was initiated in November 2006 by entities with the legal authority to do so: the State Superintendent of Public Instruction and the county offices of education in Los Angeles, Orange, Sacramento, San Bernardino, and Siskiyou counties.
2. **The Options for Youth's (OFY's) statement is misleading.** While OFY did provide the audit team with information regarding the pupil-to-teacher ratio for the Los Angeles Unified School District, the audit team believes that the information provided by OFY to support its pupil-to-teacher ratio arguments contained questionable assumptions and estimates. In fact, OFY acknowledges in its response on page 4 that it based its calculations on "information available at the time," and that the "actual pupil-to-teacher ratios had not as yet been published by the districts and, as such, were not available at the time OFY had to file its Senate Bill 740 funding requests." The audit team directly contacted LAUSD to obtain its pupil-to-teacher ratio.
3. **The OFY is wrong.** Conducting an audit of the pupil-to-teacher ratios for LAUSD, Yreka Union School District, Sacramento City Unified School District and the San Bernardino City Unified School District is not within the authority of the audit team and was not within the scope of the audit team's review. Therefore, OFY's assertions that the audit team did not follow Generally Accepted Governmental Auditing Standards or the law are baseless. The audit team obtained the comparison district pupil-to-teacher ratio data directly from the school districts and has no reason to believe that this information is not accurate.
4. **The OFY is wrong.** The OFY has based its response to the audit report on an inaccurate interpretation of a May 2002 memo from the California Department of Education without consulting the appropriate statute, California Education Code Section 51745.6, which states that nonclassroom-based school apportionment funding shall be reduced to the extent that its units of average daily attendance result in a pupil-to-teacher ratio that exceeds that of the comparison district (please see the statute below). While meeting this provision is a require-

ment for receiving full funding, not meeting this requirement is still a basis for reductions in funding, regardless of the funding percentage received as determined by the Senate Bill 740 funding process. Under OFY's interpretation, it could have any pupil-to-teacher ratio if it does not receive 100% funding.

51745.6. (a) The ratio of average daily attendance for independent study pupils 18 years of age or less to school district full-time equivalent certificated employees responsible for independent study, calculated as specified by the State Department of Education, shall not exceed the equivalent ratio of pupils to full-time certificated employees for all other educational programs operated by the school district. The ratio of average daily attendance for independent study pupils 18 years of age or less to county office of education full-time equivalent certificated employees responsible for independent study, to be calculated in a manner prescribed by the State Department of Education, shall not exceed the equivalent ratio of pupils to full-time certificated employees for all other educational programs operated by the high school or unified school district with the largest average daily attendance of pupils in that county.

(b) Only those units of average daily attendance for independent study that reflect a pupil-teacher ratio that does not exceed the ratio described in subdivision (a) shall be eligible for apportionment pursuant to Section 42238.5, for school districts, and Section 2558, for county offices of education.

5. **The OFY is wrong.** The pupil-to-teacher ratio given to the audit team by LAUSD was calculated on July 31, 2003. In addition, the audit team contacted the districts directly for their pupil-to-teacher ratios. The audit team believes that OFY should have directly contacted the school districts for their pupil-to-teacher ratios in the past, whether or not they were "published."
6. **The OFY's statement is inaccurate.** While Title 5, California Code of Regulations, Section 19853(c)(4) does state that the audit should verify "... the pupil-teacher ratio of the largest unified school district in the county or counties in which the charter school operates," the audit team did just that by directly contacting the school districts.



**Opportunities For Learning
Charter Schools**

EMS

RESPONSE TO AUDIT OF OPPORTUNITIES FOR LEARNING

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ASSESSMENT / EVALUATION

Dr. James Catterall
Professor, UCLA Graduate
School of Education and
Information Studies

FCMAT and MGT of America, Inc. (the "Auditors") were engaged to perform a Limited Scope Review of the operations of the Opportunities for Learning Charter Schools ("OFL") during the 2001-2002 fiscal year (the "2001-2002 Audit"). This review occurred in the months of February and March 2007 culminating in a report setting forth the Auditors' conclusions and recommendations (the "Audit Report"). OFL submits the following response (the "Response") in order to address, as comprehensively as possible, the information, conclusions and recommendations contained in the Audit Report. More importantly, the Response is offered for the purpose of addressing the errors made by the Auditors both substantively and procedurally which have led to inaccurate conclusions stated in the Audit Report.

The Auditors claim that the 2001-2002 Audit is an extension of a previously concluded Audit of OFL for the 2002-2003; 2003-2004; and, 2004-2005 fiscal years. However a report of that Audit was published in final form in August 2006 and has been appealed by OFL. Thus, the Audit Report that is the subject of this Response cannot be an "extension" of a previously published audit currently under legal review.

The genesis of the 2001-2002 Audit was OFL's prevailing in a legal action against the California Department of Education ("the CDE") in which the California Court of Appeal found that funding determinations made for OFL for the 2002-2003 fiscal year were illegally undertaken. The Court invalidated OFL's funding determination for that year and ordered the CDE to properly re-determine OFL's funding. Instead of proceeding with the Court ordered re-determination, the CDE sought to delay the process and to instead pursue the 2001-2002 Audit.

OFL Charter Schools

In 2001-2002 OFL served approximately 7,400 students, consisting almost entirely of at-risk youth, failed or under-served students from the traditional public school system, many of whom would never have completed high school or attempted to do so but for OFL programs.

656746.1

1

OPPORTUNITIES FOR LEARNING CAN BE THE BEST INDEPENDENT STUDY PUBLIC SCHOOL EMPOWERING UNDERSERVED STUDENTS BY
UNLOCKING THEIR PASSIONS AND DREAMS AND MOVING THEM DAILY TOWARD GRADUATION.

What began many years ago as an experiment in the efficiencies and effectiveness of a for-profit educational model has evolved into an extraordinarily successful program that has captured tens of thousands of youth lost or forgotten by the traditional public school system. Today, the Western Association of Schools and Colleges ("WASC") accredited OFL charter schools enjoy Academic Progress Index (API) scores that are 130 points higher than alternative schools in the counties in which OFL operates. In comparison with peer schools, OFL California High School Exit Examination (CAHSEE) passage rates are an average of 10%-20% higher in English-Language Arts and 5%-10% higher in mathematics. In comparison with the State average, OFL's Hispanic students boast CAHSEE passage rates that are 20% higher in English-Language Arts. OFL students who are socio-economically disadvantaged have a 15% higher CAHSEE passage rate in English-Language Arts than the State average for students in the same group. When compared with the 100 similar schools listed by the CDE (size and demographics), OFY schools ranked in the 8th, 9th, and 10th deciles on a scale of 1 (lowest) to 10 (highest).

The 2001—2002 Audit

OFL participated in the FCMAT Audit willingly and in all reasonable respects. OFL attempted to provide the Auditors with corrections and additional information with regard to those areas where the Auditors' assumptions and conclusions are erroneous. The Auditors based their conclusions upon information received from third parties. Yet, the Auditors took no steps whatsoever to determine whether the third party information was in fact reliable or valid in any respect. This failure to verify third party information was not only a violation of the Generally Accepted Government Auditing Standards upon which the Audit Report was to be based, but also led the Auditors to reach unreliable and indeed inaccurate conclusions.

3

4

The most significant example of improper conclusions reached as a result of inaccurate third party information is the Auditor's finding that OFL exceeded the pupil-to-teacher ratio ("PTR") of the largest unified school district in the county in which the OFL charter schools operate. This determination involves a comparison of OFL's PTR to the Los Angeles Unified School District's (the "LAUSD's") PTR during the audited time period. In reaching their conclusion, the Auditors accepted LAUSD's representation of its 21:1 PTR without engaging in any review of whether the number offered by LAUSD is accurate. OFL contends that LAUSD's stated PTR as used by the Auditors herein is absolutely incorrect. Thus, the Auditor's conclusion that OFL's PTR exceeded LAUSD's PTR is erroneous.

4

A further example of the Auditor's improper conclusions arise out of the recommendation that the CDE should consider seeking reimbursement of approximately \$600,000 related to the Auditor's finding that the PTR of OFL's William S. Hart school

("OFL-WSH") exceeded LAUSD's PTR during the relevant period of time. The Auditor's analysis fails to take into account the fact that when OFL-WSH received its initial (and later invalidated) 2002-2003 funding determination it was below the 100% level. As a matter of law, the requirement that OFL's PTR not exceed LAUSD's PTR applies *only* if OFL received, or will receive, 100% funding.

5

To the extent that the Audit Report is not revised after submission of this Response to correct the Auditors' inaccurate assumptions and conclusions, OFL will pursue all available remedies in order to ensure that the record regarding the operations of OFL charter schools is accurate, impartial and complete. OFL has been required to respond to the Audit Report in a compressed period of time. Accordingly, OFL reserves its right to at anytime raise additional arguments, either factual or legal, not raised herein or that may be subsequently developed by OFL.

Charter School Pupil-to-Teacher Ratios

The most significant statement contained in the Audit Report is that OFL-WSH school had a PTR during the 2001-2002 year of 24:1 that, therefore, exceeded LAUSD's purported PTR of 21:1 for the relevant period of time. The required adjustment to OFL-WSH's ADA, based upon the Auditor's analysis, equates to \$600,000 in funding to which OFL would not be entitled. However, because LAUSD's PTR is not, in fact 21:1 for the relevant time period, the analysis is flawed and there is no factual or legal basis for any ADA adjustment. In addition, the PTR comparison is only relevant to a consideration of whether OFL shall receive 100% funding for the 2002-2003 year and is otherwise entirely immaterial.

4

5

The Auditors' Failure to Verify LAUSD's PTR Renders Their Analysis Useless

The Auditors assert that the 2001-2002 Audit was conducted according to Generally Accepted Government Auditing Standards which require the Auditors to be independent and to engage in an "objective evaluation of the sufficiency and appropriateness of evidence." The Auditors failed to meet this standard because they took no action whatsoever to review the accuracy of the PTR reported by LAUSD. It is obvious that to the extent LAUSD has incorrectly reported its PTR, the Auditors' conclusions as set forth in the Audit Report would be similarly incorrect. In addition, the Auditors failed to take any steps to determine the accuracy of the components and underlying assumptions of LAUSD's reported PTR, all of which can and do directly affect the accuracy of the purported 21:1 LAUSD PTR.

4

In order to properly audit the ratio of OFL's independent study charter schools' PTR's to the PTR of the largest unified school district located in the county in which

OFL operates, an independent and unbiased audit must review both the PTR reported by OFL and the PTR reported by LAUSD. The Auditors completed only one-half of their task. The Auditors made no finding regarding the accuracy of the PTR figure proffered by LAUSD and acknowledge they took no steps to assess the accuracy of one-half of the calculation on which they based their recommendation regarding an adjustment of more than \$600,000 to OFL-WSH's ADA should be considered.

4

The Auditors' actions in failing to validate the evidence on which they rely is a violation of GAGAS which requires that "auditors use their professional knowledge, skills and experience to diligently perform, in good faith and with integrity, the gathering of information and the objective evaluation of the sufficiency and appropriateness of evidence." The Auditors' failure to verify the evidence upon which their finding is based also constitutes a violation of Title 5, California Code of Regulations, section 19853(c)(4), which states that when performing an audit of an independent study charter school, an auditor must "verify the accuracy of the following data submitted by the charter school to the California Department of Education on the non-classroom based funding determination form applicable to the year being audited: the charter school's pupil-teacher ratio calculated pursuant to Section 11704, and, if submitted, the pupil-teacher ratio of the largest unified school district in the county or counties in which the charter school operates." As a result of the Auditors' failure to perform the 2001-2002 Audit in accordance with GAGAS and applicable California law, any conclusions set forth in the Audit Report concerning the ratio of OFL's PTR's to LAUSD's PTR should be rejected.

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To the Extent that LAUSD's Purported PTR is Incorrect the Auditors' Findings are Incorrect.

Because the Auditors failed to take any steps to verify the PTR reported by LAUSD to the Auditors, their conclusions as set forth in the Audit Report are only as reliable as the accuracy of the PTR reported by LAUSD. OFL believes that 21:1 PTR reported by LAUSD is incorrect and is based upon various faulty assumptions. Even a cursory review of actual LAUSD data, such as average class size and inconsistencies in LAUSD's reporting during the relevant time period, renders the reported 21:1 PTR objectively questionable. It should also be noted that changes in applicable laws and regulations setting a PTR standard of 25:1 for comparison purposes reflects the State's acknowledgement that relying upon PTRs reported by school districts, who have a substantial political and public relations incentive to under-report their PTRs, is troublesome for all concerned and renders the process undertaken by the Auditors inherently unreliable.

4

If necessary, OFL will undertake the steps the Auditors should have taken to further verify LAUSD's actual PTR for the relevant time period and will supplement this

response and/or reveal the results of the analysis in the course of any appeal or other legal action pursued in connection with the Audit Report.

The LAUSD PTR Reported by OFL was Reported in Good Faith.

OFL reported a PTR for LAUSD for the 2001-2002 year based upon a good faith investigation. The number was not simply pulled from thin air. Indeed, unlike the Auditors, OFL, at substantial expense, endeavored to accurately determine LAUSD's PTR. OFL engaged the auditing firm of Vavrinek, Trine, Day & Co., LLP ("VTD") to determine LAUSD's PTR. VTD contacted LAUSD and instead of simply asking for the PTR for the relevant time period, VTD requested the underlying data necessary to calculate the PTR, such as student enrollment figures and certified teacher statistics. VTD, using this data, concluded that the PTR was, in fact 26:1. OFL then, in good faith, reported this figure on its SB 470 funding determination forms. On appeal, the Education Audit Appeals Panel can reject a finding adverse to a charter school, or the consequences thereof, when it is determines that the charter school acted in good faith and with substantial justification. In light of OFL's reasonable investigation into LAUSD's PTR and the State's clear acknowledgement that PTRs reported by school districts are largely unreliable or inaccurate, it is likely that EAAP, if acting in an unbiased manner, would conclude that OFL acted in good faith and should not be subjected to any adverse adjustment of its ADA.

7

Any Adjustment of OFL-WSH ADA Would be Improper Because the PTR Requirement Applies Only if OFL receives 100% Funding.

The SB 740 regulations set forth the requirements for independent study charter schools to receive 70%, 80% or 100% funding. The requirements for these levels of funding differ, particularly with respect to the 100% funding level. According to the regulations, the requirement that a school's PTR shall not exceed the ratio of the largest unified school district in the county in which the school operates applies to only the 100% funding level.

5

When the CDE completed its now invalidated funding determination for OFL for the 2002-2003 year, OFL received only 60% funding. Accordingly, the PTR comparison was, and remains, irrelevant and any adjustment to OFL's ADA (and, therefore its funding) for that year based upon the PTR comparison would be improper. Now that the CDE must re-determine OFL's 2002-2003 funding, as a matter of law, the CDE may only consider the PTR comparison in connection with determining whether to fund OFL at the 100% level and must disregard the comparison with respect to funding at any other level.

5


CONCLUSION

As noted at the outset of this Response, OFL has cooperated with the Audit in all reasonable respects. While OFL believes that many of the recommendations contained in the Audit Report are based upon faulty factual premises and improper or erroneous legal conclusions, OFL is committed to improving its programs in all respects. It is in that spirit that OFL, through its Managers and Officers, will continue to consider the recommendations, contained in the Audit Report and, where appropriate, implement those recommendations that will help OFL to continue its successful commitment to California's at risk and educationally under-served youth.

Last Minute Memorandum

To: STATE BOARD MEMBERS

Date: May 29, 2002

From: 
Janet Sterling, Director
School Fiscal Services Division

Re: ITEM #36

Subject: PERMANENT REGULATIONS REGARDING CLASSROOM AND
NONCLASSROOM BASED INSTRUCTION IN CHARTER SCHOOLS:
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California Department of Education staff recommend that the State Board of Education direct that this package of amendments be circulated for a 15-day public review period in accordance with the Administrative Procedures Act.

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 2. The charter school's total expenditures on instruction and instruction-related activities are at least **55 percent** of the charter school's total revenues.
- II. **100 percent (i.e. full funding)** – a charter school must demonstrate that its total expenditures on certificated employee salaries and benefits are at least **50 percent** of the charter school's total public revenues.
- III. **Less than 80 percent** – if a charter school does not meet **BOTH** of the minimum requirements to receive 80 percent funding, then the funding level is **70 percent**.

FOR 2003-04 AND EACH FISCAL YEAR THEREAFTER

- I. **70 percent** – a charter school must demonstrate **BOTH** of the following:
 1. The charter school's total expenditures on certificated employee salaries and benefits are at least **40 percent** of the charter school's total public revenues; **AND**
 2. The charter school's total expenditures on instruction and instruction-related activities are at least **60 percent** of the charter school's total revenues.
- II. **85 percent** – a charter school must demonstrate **BOTH** of the following:
 1. The charter school's total expenditures on certificated employee salaries and benefits are at least **50 percent** of the charter school's total public revenues; **AND**
 2. The charter school's total expenditures on instruction and instruction-related activities are at least **70 percent** of the charter school's total revenues.
- III. **100 percent (i.e. full funding)** – a charter school must demonstrate **ALL** of the following:
 1. The charter school's total expenditures on certificated employee salaries and benefits are at least **50 percent** of the charter school's total public revenues; **AND**
 2. The charter school's total expenditures on instruction and instruction-related activities are at least **80 percent** of the charter school's total revenues; **AND**
 3. The charter school's pupil-teacher ratio as calculated pursuant to *Education Code* Section 51745.6 is no greater than the pupil-teacher ratio of the largest unified school district in the county or counties in which the charter school operates.
- IV. **Less than 70 percent** – if a charter school does not meet **ALL** of the minimum requirements to receive 70 percent, then the funding level is **zero**.

- All expenditure and revenue data will be prior year data, except for new charter schools, which will use estimated current year data.
- Mitigating factors and individual circumstances may be considered by the ACCS and SBE in making determinations different from the standards above.

Rebuttal to the Opportunities for Learning Response

To provide clarity and perspective, the audit team is commenting on the Opportunities for Learning response to the audit. The numbers below correspond to the numbers the audit team has placed in Opportunities for Learning's response.

1. **Opportunities for Learning (OFL) is wrong.** As described below, the audit team does not believe it made any errors or inaccurate conclusions.
2. **The audit team fails to see the point of this statement.** The findings presented in the audit report are unaffected whether the fiscal year 2001-02 audit was an extension of the 2002-03 through 2004-05 audit or a new audit. Further, the audit was initiated in November 2006 by entities with the legal authority to do so: the state Superintendent of Public Instruction and the county offices of education in Los Angeles, Orange, Sacramento, San Bernardino, and Siskiyou counties.
3. **The OFL is wrong.** The OFL did not provide the audit team with corrections or additional information with regard to the pupil-to-teacher ratio for the Los Angeles Unified School District (LAUSD). Rather, Options for Youth provided the audit team with additional information on the pupil-to-teacher ratio. In fact, the audit team believes that the information provided by OFY to support its pupil-to-teacher ratio arguments contained questionable assumptions and estimates.
4. **The OFL is wrong.** Conducting an audit of the pupil-to-teacher ratio for LAUSD was not within the authority of the audit team or within the scope of the audit team's review. Therefore, OFL's assertions that the audit team did not follow Generally Accepted Governmental Auditing Standards or the law are baseless. The audit team obtained the comparison district pupil-to-teacher ratio data directly from the school district, and has no reason to believe that this information is inaccurate. Of greater concern is that both OFL charters claimed pupil-to-teacher ratios that were significantly lower than those verified by the audit team.
5. **The OFL is wrong.** The OFL has based its response to the audit report on an inaccurate interpretation of a May 2002 memo from the California Department of Education without consulting the appropriate statute, California Education Code Section 51745.6, which states that independent study school apportionment funding shall be reduced to the extent that its units of average daily attendance result in a pupil-to-teacher ratio that exceeds that of the comparison district (please see the statute below). While meeting this provision is a requirement for

receiving full funding, not meeting this requirement is still a basis for reductions in funding regardless of the funding percentage received as determined by the Senate Bill 740 funding process. The OFL seems to acknowledge this point in its response on page 5: “OFL ... should not be subjected to any adverse adjustment of its ADA.” Further, under OFL’s interpretation, it could have any pupil-to-teacher ratio if it does not receive 100% funding.

51745.6. (a) The ratio of average daily attendance for independent study pupils 18 years of age or less to school district full-time equivalent certificated employees responsible for independent study, calculated as specified by the State Department of Education, shall not exceed the equivalent ratio of pupils to full-time certificated employees for all other educational programs operated by the school district. The ratio of average daily attendance for independent study pupils 18 years of age or less to county office of education full-time equivalent certificated employees responsible for independent study, to be calculated in a manner prescribed by the State Department of Education, shall not exceed the equivalent ratio of pupils to full-time certificated employees for all other educational programs operated by the high school or unified school district with the largest average daily attendance of pupils in that county.

(b) Only those units of average daily attendance for independent study that reflect a pupil-teacher ratio that does not exceed the ratio described in subdivision (a) shall be eligible for apportionment pursuant to Section 42238.5, for school districts, and Section 2558, for county offices of education.

6. **The OFL’s statement is inaccurate.** While Title 5, California Code of Regulations, Section 19853(c)(4) does state that the audit should verify “... the pupil-teacher ratio of the largest unified school district in the county or counties in which the charter school operates,” the audit team did just that by directly contacting the school district.
7. **The audit team disagrees.** The audit team believes that OFL should have directly contacted LAUSD for its pupil-to-teacher ratio. In addition, the OFL auditors used questionable assumptions in calculating LAUSD’s pupil-to-teacher ratio. Finally, LAUSD used its pupil-to-teacher ratio to calculate disallowed average daily attendance from its own independent study programs, just as the audit team did for OFL.